

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

|   |   |                            |
|---|---|----------------------------|
| <b>In the Matters of</b>                      | ) |                            |
|   | ) |                            |
| <b>CITY PAGE &amp; CELLULAR SERVICES, INC</b> | ) | File No. EB-02-IH-0889     |
| <b>d/b/a CITY BEEPERS</b>                     | ) | NAL/Acct. No. 200332080003 |
|   | ) | FRN 0007686363             |
|   | ) |                            |
|   | ) |                            |
| <b>GABRIEL WIRELESS, LLC</b>                  | ) | File No. EB-02-IH-0890     |
|   | ) | NAL/Acct. No. 200332080004 |
|   | ) | FRN 0001732387             |
|   | ) |                            |
| <b>GOLDEN ARROW PAGING, INC.</b>              | ) | File No. EB-02-IH-0891     |
|   | ) | NAL/Acct. No. 200332080005 |
|   | ) | FRN 0001636554             |
|   | ) |                            |
| <b>SELECTPATH HOLDING, INC.</b>               | ) | File No. EB-02-IH-0892     |
|   | ) | NAL/Acct. No. 200332080006 |
|   | ) | FRN 0001610013             |
|   | ) |                            |
| <b>TELEPHONE &amp; TWO-WAY INC.</b>           | ) | File No. EB-02-IH-0893     |
|   | ) | NAL/Acct. No. 200332080007 |
|   | ) | FRN 0002931608             |
|   | ) |                            |
| <b>WHARTON TELECOM HOLDINGS, INC.</b>         | ) | File No. EB-02-IH-0895     |
|   | ) | NAL/Acct. No. 200332080009 |
| Applicants for Wireless Telecommunications    | ) | FRN 0005910450             |
| Bureau Radio Service Authorization            | ) |                            |

**ORDER**

**Adopted: October 22, 2003**

**Released: October 23, 2003**

By the Chief, Enforcement Bureau:

1. On December 27, 2002, the Enforcement Bureau released notices of apparent liability for forfeiture (each an "NAL")<sup>1</sup> against each of the captioned parties, all winning bidders in the Commission's Lower and Upper Paging Bands Auction ("Auction No. 40"), for their failure to timely file their "long-form" auction applications (FCC Form 601) and accompanying ownership reports (FCC Form 602) following completion of the auction, in apparent violation of Sections 1.2107(c) and 1.2107(f) of the

<sup>1</sup>See *In re City Page & Cellular Services, Inc. d/b/a City Beepers*, 17 FCC Rcd 26,214 (2002); *In re Gabriel Wireless, LLC*, 17 FCC Rcd 26,223 (2002); *In re Golden Arrow Paging, Inc.*, 17 FCC Rcd 26,231(2002); *In re SelectPath Holding, Inc.*, 17 FCC Rcd 26,239 (2002); *In re Telephone & Two-Way Inc.*, 17 FCC Rcd 26,247 (2002); *In re Wharton Telecom Holdings, Inc.*, 17 FCC Rcd 26,263 (2002). See also *In re UHF-DE, LLC*, 17 FCC Rcd 26,255 (2002)(forfeiture paid).

Commission's rules.<sup>2</sup> In response to issuance of the NALs several of the parties<sup>3</sup> argued that the Wireless Telecommunications Bureau ("WTB") granted the waiver requests submitted with their late-filed long-form applications and ownership reports and, as a consequence, waived application of Section 1.2107(c) of the Commission's rules.<sup>4</sup>

2. As noted in responses to the NALs, on December 23, 2002, WTB granted the companies waivers of Section 1.2107(c) of the Commission's rules. Under the facts and circumstances of these cases and the basis of the waivers, as described in the WTB waiver order,<sup>5</sup> we conclude that imposition of a forfeiture against these companies is not warranted."

3. Accordingly, pursuant to Section 4(i) and (j) of the Communications Act of 1934, as amended,<sup>6</sup> and Sections 0.111 and 0.311 of the Commission's rules,<sup>7</sup> the aforementioned notices of apparent liability for forfeiture are, hereby, cancelled.

FEDERAL COMMUNICATIONS COMMISSION

David H. Solomon  
Chief, Enforcement Bureau

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<sup>2</sup> 47 C.F.R. §§ 1.2107(c), 1.2107(f).

<sup>3</sup> See, e.g., letter, dated January 27, 2003, from Kenneth E. Harman, counsel for Gabriel Wireless, LLC, to Ms. Marlene H. Dortch, Secretary, Federal Communications Commission.

<sup>4</sup> See *In re City Page & Cellular Services, Inc., et al.*, 17 FCC Rcd 26,109 at (2002)

<sup>5</sup> *Id.*

<sup>6</sup> 47 U.S.C. §4(i) and (j).

<sup>7</sup> 47 C.F.R. §§ 0.111, 0.311.